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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/520,971  | 01/11/2005  | Teruaki Yogo         | ADACHI P266US       | 6440             |
| 20210   | 7590        | 05/15/2006           | EXAMINER            |                  |
| DAVIS & BUJOLD, P.L.L.C.<br>FOURTH FLOOR<br>500 N. COMMERCIAL STREET<br>MANCHESTER, NH 03101-1151 |             |                      | LOPEZ, FRANK D      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3745                |                  |

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/520,971 | <b>Applicant(s)</b><br>YOGO, TERUAKI |  |
|                              | <b>Examiner</b><br>F. Daniel Lopez   | <b>Art Unit</b><br>3745              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 6-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/11/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

### ***Response to Amendment***

The amendment to the claims filed on January 11, 2005 does not comply with the requirements of 37 CFR 1.121(c) because claims 1-5 are not listed as being canceled. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, **must include a complete listing of all claims ever presented**, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. **Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.**

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously

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presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

### ***Claim Rejections - 35 USC § 112***

Claims 6-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6 line 6 "." should be --;--, since a claim should be a single sentence.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 6-10 are rejected under 35 U.S.C. § 103 as being unpatentable over Japan 63-150102 in view of Franchet et al and Japan 61-294201. Japan 63-150102 discloses a fluid pressure apparatus comprising a reservoir cavity (4) formed between inner (18) and outer (16) cylinders; with a gear pump (inside 18) located in the inner cylinder and driven by an electric motor (5) in two directions; wherein the pump is connected to an actuator (2) by a pair of pressure lines (connected to 11, 12); wherein the reservoir is connected to the pair of lines by check valves (23, 24); and wherein a rotating shaft of the electric motor is rotatably supported by a lid member (17) closing one end of the inner and outer cylinders; but does not disclose that the sliding cavity is divided into a preload chamber and a tank chamber by a piston, preloaded with air pressure; or that the pump is a swash plate piston pump.

Franchet et al teaches, for a fluid pressure apparatus comprising a reservoir cavity (including 76) formed between inner (including 42) and outer (including 38) cylinders, with a swash plate pump (including 22) located in the inner cylinder and driven by an electric motor (44); wherein the pump is connected to an actuator by a pair of pressure lines (18); that the reservoir cavity is a sliding cavity divided into a preload chamber and a tank chamber by a bellows (72), preloaded by a spring (74), for the purpose of compensating for variations in oil (column 1 line 19-21), regardless of the orientation of the reservoir.

Japan 61-294201 teaches, for a fluid pressure apparatus comprising a sliding cavity (including 76) formed between inner and outer (1) cylinders, divided into a preload chamber (5) and a tank chamber (6), preloaded; with a pump (11) located in the inner cylinder and driven by an electric motor (12); that the sliding cavity is divided into the preload chamber and the tank chamber by a piston (4), and preloaded with air pressure.

Since Japan 63-150102 and Franchet et al are both from the same field of endeavor, the purpose disclosed by Franchet et al would have been recognized in the pertinent art of Japan 63-150102. Since the divider and preload of Franchet et al and Japan 61-294201 are functionally equivalent in the fluid actuator art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to add a piston with an air pressure preload to the reservoir cavity of Japan 63-150102, as taught

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by Japan 61-294201, for the purpose of compensating for variations in oil (column 1 line 19-21), regardless of the orientation of the reservoir, as taught by Franchet et al

Official notice is taken that gear pumps, rotatable in two directions, and swash plate piston pumps, rotatable in two directions, are functionally equivalent in the fluid actuator art. It would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the gear pump of Japan 63-150102 with a swash plate piston pump, as a matter of engineering expediency.

Claims 6-9 are rejected under 35 U.S.C. § 103 as being unpatentable over Franchet et al in view of Japan 61-294201. Franchet et al discloses a fluid pressure apparatus (embodiment used for this rejection is fig 4, but the reference numbers are located on fig 3) comprising a sliding cavity (including 76) formed between inner (including 42) and outer (including 38) cylinders, divided into a preload chamber and a tank chamber by a bellows (72), preloaded by a spring (74); with a swash plate pump (including 22) located in the inner cylinder and driven by an electric motor (44); wherein the pump is connected to an actuator by a pair of pressure lines (18); but does not disclose that the sliding cavity is divided into the preload chamber and the tank chamber by a piston, preloaded with air pressure. It is assumed that the reservoir is inherently connected to the pair of lines by check valves (since this is the standard connection), although it is not shown. If not, it would have been obvious at the time the invention was made to one having ordinary skill in the art to connect the reservoir to the pair of lines by check valves, as a matter of engineering expediency.

Japan 61-294201 teaches, for a fluid pressure apparatus comprising a sliding cavity (including 76) formed between inner and outer (1) cylinders, divided into a preload chamber (5) and a tank chamber (6), preloaded; with a pump (11) located in the inner cylinder and driven by an electric motor (12); that the sliding cavity is divided into the preload chamber and the tank chamber by a piston (4), and preloaded with air pressure.

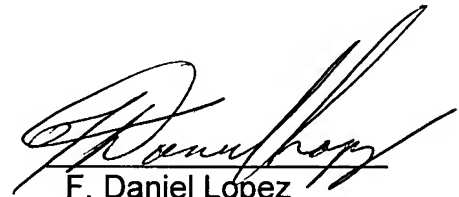
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Since the divider and preload of Franchet et al and Japan 61-294201 are functionally equivalent in the fluid actuator art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the bellows of Franchet et al with a piston and the spring preload with an air pressure preload, as taught by Japan 61-294201, as a matter of engineering expediency.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

A handwritten signature in black ink, appearing to read 'F. Daniel Lopez', is written over a horizontal line.

F. Daniel Lopez  
Primary Examiner  
Art Unit 3745  
May 11, 2006